

BoxInterference@uspto.gov  
Tel: 571-272-4683

Paper 161  
Entered 19 March 2008

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

ELAZAR RABBANI, JANNIS G. STAVRIANOPOULOS,  
JAMES J. DONEGAN, JACK COLEMAN and MARLEEN WALNER,

Junior Party  
(Application 10/306,990),

v.

TSUGUNORI NOTOMI and TETSU HASE,

Senior Party  
(Patent 6,410,278 B1)  
(Patent 6,974,670 B2).

Patent Interference 105,427—McK  
Patent Interference 105,432—McK  
Technology Center 1600

*Before: FRED E. McKELVEY, Senior Administrative Patent Judge, and  
RICHARD TORCZON and JAMES T. MOORE, Administrative Patent  
Judges.*

*McKELVEY, Senior Administrative Patent Judge.*

**JUDGMENT**

For the reasons given in (1) the decision on motions entered by a  
motions panel (Judges McKelvey, Hanlon and Spiegel) (Paper 118), adhered  
to on reconsideration (Paper 130) and (2) the MEMORANDUM OPINION  
and ORDER (Paper 160) entered concurrently with this JUDGMENT, it is

1 ORDERDED that judgment on priority as to Count 1 [the sole  
2 count in Interference 105,427 (105,427 Paper 1, pages 8-9)] is awarded  
3 against Junior Party ELAZAR RABBANI, JANNIS G.  
4 STAVRIANOPOULOS, JAMES J. DONEGAN, JACK COLEMAN and  
5 MARLEEN WALNER.

6 FURTHER ORDERED that as a result of judgment being  
7 entered against it on Count 1, Junior Party ELAZAR RABBANI, JANNIS  
8 G. STAVRIANOPOULOS, JAMES J. DONEGAN, JACK COLEMAN and  
9 MARLEEN WALNER is not entitled to a patent containing claim 216  
10 (corresponding to Count 1 of Interference 105,427) of:

11 application 10/306,990  
12 filed 29 November 2002  
13

14 FURTHER ORDERED that claim 216 Rabbani application  
15 10/306990 is finally refused. 35 U.S.C. § 135(a).

16 ORDERDED that judgment on priority as to Count 2 [the sole  
17 count in Interference 105,432 (105,432 Paper 1, pages 8-10)] is awarded  
18 against Junior Party ELAZAR RABBANI, JANNIS G.  
19 STAVRIANOPOULOS, JAMES J. DONEGAN, JACK COLEMAN and  
20 MARLEEN WALNER.

21 FURTHER ORDERED that as a result of judgment being  
22 entered against it on Count 2, Junior Party ELAZAR RABBANI, JANNIS  
23 G. STAVRIANOPOULOS, JAMES J. DONEGAN, JACK COLEMAN and  
24 MARLEEN WALNER is not entitled to a patent containing claim 216  
25 (corresponding to Count 2 of Interference 105,432) of:

26 application 10/306,990  
27 filed 29 November 2002  
28

1                   FURTHER ORDERED that claim 216 Rabbani application  
2 10/306990 is finally refused. 35 U.S.C. § 135(a).

3                   FURTHER ORDERED that if there is a settlement agreement,  
4 attention is directed to 35 U.S.C. § 135(c).

5                   FURTHER ORDERED that a copy of this JUDGMENT shall  
6 be placed in the files of (1) Rabbani application 10/306,990, (2) Notomi  
7 patent 6,410,278 B1 and (3) Notomi patent 6,974,670 B2.

1 cc (via Electronic Mail):  
2  
3 Attorney for Notomi  
4 (real party in interest Eiken Kagaku Kabushiki Kaisha;  
5 licensee: Meridian Bioscience, Inc.):  
6  
7 Barry E. Bretschneider, Esq.  
8 Peter J. Davis, Esq.  
9 MORRISON & FOERSTER LLP  
10 1650 Tysons Boulevard, Suite 300  
11 McLean, VA 22102  
12  
13 Tel: 703-760-7743 (Bretschneider)  
14 Tel: 703-760-7748 (Davis)  
15 Fax: 703-760-7777  
16 Email: bbretschneider@mofo.com  
17 Email: pdavis@mofo.com  
18  
19 Attorney for Rabbani  
20 (real party in interest  
21 Enzo Life Sciences, Inc.,  
22 subsidiary of Enzo Biochem, Inc.):  
23  
24 Eugene C. Rzucidlo, Esq.  
25 Robert M. Schulman, Esq.  
26 HUNTON & WILLIAMS  
27 1900 K Street, N.W.  
28 Washington, D.C. 20006  
29  
30 Tel: 212-309-1214 (Rzucidlo)  
31 Fax: 212-309-1100 (Rzucidlo)  
32 Tel: 202-955-1500 (Schulman)  
33 Fax: 202-778-2201 (Schulman)  
34 Email: gcr@hunton.com  
35 Email: rschulman@hunton.com